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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,109	01/17/2006	Calin Turcanu	P1712US00	2893
30671 7590 08/19/2009 DITTHAVONG MORI & STEINER, P.C. 918 Prince St. Alexandria, VA 22314				
EXAMINER				
LAM, DUNG LE				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
08/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/560,109

**Applicant(s)**

TURCANU, CALIN

**Examiner**

DUNG LAM

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13, 14, 17, 18 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13, 14, 17, 18 and 20-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/7/2009 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 22 and 23 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 22 and 23 recites, "a computer-readable medium encoding an executable program of instructions being configured to control a process to perform: ..... " all the steps in claims 22 and 23. The examiner was unable to find these teachings a computer readable medium that encodes instructions to perform all the steps claimed in claim 22 and 23 in the original specification.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-14, 17-18 and 20-30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The independent claims recite,

"deleting the ad-hoc group when said new ad-hoc group call ends "

The examiner is not clear what is being deleted. Is it the call group history being deleted or the physical connections ceases to exist. Since the same language is repeated in the specification, the examiner was unable to determine what's being claimed. For examination purpose, the examiner will interpret "deleting the ad-hoc group when said ad-hoc group call ends" is the same as "when the ad-hoc group call end, link and bearer of the call is released."

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14, 17-18 and 20-30 rejected under 35 U.S.C. 103(a) as being unpatentable over **Mathis** (US Patent Number 2003/0119540) in view of **Griffin** (US Pub. 2003/0155447) further in view of **Lopponen** (US Pub. 2002/0150091).

2. Regarding **claim 14**, **Mathis** teaches a method comprising:

- storing a list of subscribers in a phonebook application in a subscriber device ([0013, 0009, 0004]),
- storing presence information of the subscribers in the phonebook application ([0013, 0009, 0004]), said presence information including information on the availability of the subscribers for a group call ([0010-0013]);
- Opening the phonebook application in response to a predetermined input from the user interface ([0018], "client device is operated by the user to consult contact list" would require a predetermined input for the display to display a contact list, step 410 in Fig. 4)
- Displaying the list of subscribers on the user interface ([0018], user consult contact list, step 420 in Fig. 4).
- receiving user's selection of two or more individual subscribers as for a group call from the list via the user interface (dynamically selecting group TG1 means users A and B are selected which broadly reads on the limitation of "selection of two or more subscribers", Fig. 2; [0016, 0018]; and
- in response to the user selecting a predetermined operation in the group communications menu or the user pressing a predetermined button, providing appropriate control plane function signaling with a group communication service in a network infrastructure for establishing a ... group call with said selected subscribers and

the user of the subscriber device (Step 430 & S450 where user presses PTT button, then the control function sets up the group call service including assigning resources which reads on control plane function, [0013, 0018-0019).

However, **Mathis** does not specifically teach, "an ad-hoc group call and sending a speech item or a speech item request each time a talk activity is detected or indicated in the subscriber device during said ad hoc group call, wherein said speech item or said speech item request is sent".

In an analogous art, **Griffin** teaches

- selection of two or more individual subscribers as an ad-hoc group for a new ad-hoc group call from the list via the user interface (Fig. 9 and 10 shows multiple subscribers can be dynamically selected which is indicated by the darkened square icons 906, [0039-0040], "If there is at least one buddy selected, ....a new thread to the selected buddies."; [0041] "To partially select a group, a user can start by selecting a group then deselecting one or more member....alternatively a user can start with an unselected group and select one or more members");
- **Griffin** further teaches, "sending a speech item or a speech item request each time a talk activity is detected or indicated in the subscriber device during said ad hoc group call, wherein said speech item or said speech item request is sent (Fig. 10, [0049-0050, 0062, 0066] and Fig 14).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to include **Griffin's** teaching of the ad-hoc group call to allow the user the flexibility to dynamically select who to talk to and not be restricted to a predefined

group and Griffin's teaching of sending a speech item request each time a talk activity is detected with Mathis' teaching in order to facilitate the push-to-talk process.

However, the above references do not explicitly teach sending speech item based on settings defined in user plane functions.

In an analogous art, **Lopponen** teaches a push-to-talk method that sends speech item/packet based on settings defined in the user-plane functions ([0066, 0107-0108, 170, 180,199]). Lopponen further teaches a control plane functions which handles the establishing of the sessions and attaching to a group, wherein a user presses PTT and the appropriate control function is triggered establishing the group call ([99, 100, 110,120, 122]) and "deleting the ad-hoc group when said new ad-hoc group call ends" (Fig. 5, last two steps, link and bearer is released [0122]). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to combine said references' teaching of PTT with Loppen's teaching of sending speech traffic over the user-plane and sending call-setting signals using the control plane functions so that logical connections can be preset and thus connection set-up time can be shortened (Lopponen, [0012]).

Regarding **claim 17 and 18**, **Mathis** teaches an apparatus comprising:

- A storage device configured to store a list of subscribers in a phonebook application in a subscriber device and presence information of the subscribers in the phonebook application ([0013, 0009, 0004]), said presence information including information on the availability of the subscribers for a group call ([0010-0013]);

- A user interface configured to display the list of subscribers of the phonebook application ([0018], user consult contact list, step 420 in Fig. 4).
- A controller configured, in response to the user's selection of two or more subscribers from the list via the user interface (selecting group TG1 means users A and B are selected which broadly reads on the limitation of "selection of two or more subscribers", Fig. 2; [0016, 0018]), to display a group communications menu on the user interface; and
- Said controller being configured, in response to the user pressing a predetermined button, to exchange appropriate control plane function signaling with a group communication service in a network infrastructure for establishing a ... group call of the selected subscribers and the user of the apparatus (Step 430 & S450 where user presses PTT button, then the control function sets up the group call service including assigning resources which reads on control plane function, [0013, 0018-0019]).

However, **Mathis** does not specifically teach, "an ad-hoc group call and sending a speech item or a speech item request each time a talk activity is detected or indicated in the subscriber device during said ad hoc group call, wherein said speech item or said speech item request is sent".

In an analogous art, **Griffin** teaches

- selection of two or more individual subscribers as an ad-hoc group for a new ad-hoc group call from the list via the user interface (Fig. 9 and 10 shows multiple subscribers can be dynamically selected which is indicated by the darkened square icons 906, [0039-0040], "If there is at least one buddy selected, ...a new thread to the selected buddies."; [0041] "To partially select a group, a user can start by



selecting a group then deselecting one or more member....alternatively a user can start with an unselected group and select one or more members");

- Furthermore, **Griffin** teaches, "sending a speech item or a speech item request each time a talk activity is detected or indicated in the subscriber device during said ad hoc group call, wherein said speech item or said speech item request is sent based on real-time transport protocol" (Fig. 10, [0049-0050, 0062, 0066] and Fig 14).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to include **Griffin's** teaching of the ad-hoc group call to allow the user the flexibility to dynamically select who to talk to and not be restricted to a predefined group and **Griffin's** teaching of sending a speech item request each time a talk activity is detected with **Mathis'** teaching in order to facilitate the push-to-talk process.

However, the above references do not explicitly teach sending speech item based on settings defined in user plane functions.

In an analogous art, **Lopponen** teaches a push-to-talk method that sends speech/voice item based on settings defined in the user-plane functions ([0066, 0107-0108, 170, 180,199]). **Lopponen** further teaches a control plane functions which handles the establishing of the sessions and attaching to a group, wherein a user presses PTT and the appropriate control function is triggered establishing the group call ([99, 100, 110,120, 122]) and "deleting the ad-hoc group when said new ad-hoc group call ends " (Fig. 5, last two steps, link and bearer is released [0122]). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to combine said references' teaching of PTT with **Loppen's** teaching of sending speech

traffic over the user-plane and sending call-setting signals using the control plane functions so that logical connections can be preset and thus connection set-up time can be shortened (Lopponen, [0012]).

Regarding claims **20-23**, they are claim directing towards computer readable medium and apparatus claims that correspond to claim 13. Therefore, they are rejected for the same reasons as claims 13.

Regarding claim **24**, Mathis, Griffin and Lopponen teach an apparatus as claimed in claim 17, wherein said controller comprises at least one programmable unit (Griffin [31]).

Regarding claim **25 and 28**, Mathis, Griffin and Lopponen teach an apparatus as claimed in claim 17/21, wherein said controller comprises at least one of a signal processor and a central processing unit (Griffin [31]).

Regarding claims **26 and 27**, they are apparatus claims that correspond to claim 25. Therefore they are rejected for the same reasons as claim 25.

Regarding claim **29**, Mathis, Griffin and Lopponen teach an apparatus as claimed in claim 21, wherein said apparatus comprises a subscriber terminal having a speech communication capability (Griffin [31]).

Regarding claim **30**, Mathis, Griffin and Lopponen teach an apparatus as claimed in claim 21, wherein said apparatus comprises a computer device having a capability for speech communication over Internet (Griffin, [30] and abstract).

***Response to Arguments***

Applicant's arguments with respect to claims 13-14, 17-18 and 20-30 have been considered but are moot in view of the new ground(s) of rejection.

The 101 rejection is maintained because the "register" does not contains instructions to perform all the steps being claimed in the claims 22-23.

Regarding argument about applicant's being entitled to be his lexicographer and that the examiner ignores applicant's definition in the specification. The examiner respectfully disagrees. There is no absolute definition in the spec that state "An ad-hoc group call is.....". The examiner only finds "An ad-hoc group call should be dynamic ..." which the examiner interpret the claim according to the "should" standard. The cited prior art clearly teaches the selection of the groups of people dynamically. If applicant feels that this definition of ad-hoc group is not sufficient, then applicant is invited further amend the claim to include such feature.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUNG LAM whose telephone number is (571) 272-6497. The examiner can normally be reached on M - F 9 - 5:30 pm, Every Other Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Harper can be reached on (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617